

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

LEE R. METZ,

Plaintiff,

v.

**1:06-CV-1509
(FJS/DRH)**

**MICHAEL J. ASTRUE, Commissioner
of Social Security,**

Defendant.

APPEARANCES

OF COUNSEL

TOBIN AND DEMPF, LLP
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Albany, New York 12207
Attorneys for Plaintiff

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**SOCIAL SECURITY ADMINISTRATION
OFFICE OF REGIONAL GENERAL
COUNSEL, REGION II**
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New York, New York 10278
Attorneys for Defendant

ANDREEA L. LECHLEITNER, ESQ.

SCULLIN, Senior Judge

ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 405(g), seeking review of Defendant's denial of his application for Social Security disability insurance benefits and supplemental security income under the Social Security Act. *See* Dkt. No. 1. Plaintiff moved for a finding that he is entitled to benefits under the Social Security Act or, in the alternative, for a remand. *See* Dkt. No. 12. Defendant filed an answer asserting that substantial evidence supported his findings and determination that Plaintiff was not disabled during the relevant

period. *See* Dkt. No. 6. Defendant also cross-moved for a judgment on the pleadings. *See* Dkt. No. 15. In a Report and Recommendation dated April 21, 2010, Magistrate Judge Homer recommended that this Court affirm Defendant's decision denying disability benefits to Plaintiff, deny Plaintiff's motion for a finding of disability, and grant Defendant's cross-motion. *See* Dkt. No. 16 at 40. The parties did not file any objections to Magistrate Judge Homer's recommendations.

Having reviewed the entire record in this matter, Magistrate Judge Homer's April 21, 2010 Report and Recommendation, and the applicable law, the Court hereby

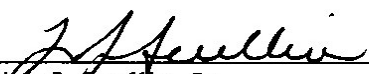
ORDERS that Magistrate Judge Homer's April 21, 2010 Report and Recommendation is **ADOPTED** in its entirety; and the Court further

ORDERS that, for the reasons stated in Magistrate Judge Homer's April 21, 2010 Report and Recommendation, Defendant's decision denying disability benefits to Plaintiff is **AFFIRMED**; Plaintiff's motion for a finding of disability or, in the alternative, for remand is **DENIED**; and Defendant's cross-motion for judgment on the pleadings is **GRANTED**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in Defendant's favor and close this case.

IT IS SO ORDERED.

Dated: May 31, 2010
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge